

REMARKS

Claims 23-34 are pending. Claims 1-22 and 35-36 have been previously cancelled. Claims 23-25 and 32 are currently amended.

Claims 23-25 and 32 have been amended to include two further limitations. The first limitation recites that the bag is collapsible, which finds support in line 28 on page 3 of the Specification as originally filed. The other limitation is added to clarify that for purpose of the present invention, the enclosed bag does not contribute volatile organic compounds (VOCs). Support of this limitation may be found in the last line on page 3 continuing onto line 1 on page 4 of the Specification as originally filed. No new matter has been introduced by the present amendments.

Rejection Under 35 U.S.C. §102(b)

Claims 23-34 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,930,906 to Hemphill. Applicant respectfully traverses the rejection and requests withdrawal of same.

To anticipate a claim, Hemphill must teach every element of the claim and “the identical invention must be shown in as complete detail as contained in the ... claim.” *MPEP 2131* citing *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989). Hemphill fails to teach all elements of Applicant's invention as currently amended.


Applicant's invention provides a kit for measuring volatile organic compounds (VOCs) of material produced in a process system having emissions using an enclosed bag having a sealable opening to allow an amount of said material to be placed in said enclosed bag such that there is headspace above said material. Applicant maintains that Applicant's claims must be read in light of the specification. As amended, Claims 23-25 and 32 recite a collapsible bag formed by at least one layer of liner that does not release significant amounts of volatile organic compounds (VOCs).

Hemphill teaches a cooking grease disposal bag. Hemphill does not teach or suggest that the bag is collapsible. On the contrary, one of the objects of Hemphill is to “provide a new and improved cooking grease disposal bag which is of a *durable and reliable construction*.” (Emphasis added) Col. 2, lines 56-58 of the ‘906 patent. The three-ply construction of the bag disclosed in Hemphill is designed to make a bag that is steady and durable, but not collapsible.

Further, the added limitation that the bag does not release significant amounts of VOCs distinguishes the device taught in Hemphill. Hemphill does not teach or suggest the construction of a bag that does not release significant amounts of VOCs. Indeed, there is no evidence that Hemphill even contemplates the issue of VOC release. Claims 26-31, 33-34 all depend directly or indirectly from Claims 23-25 or 32 and necessarily incorporate all claims limitations of these independent claims. Thus, because not all elements of Applicant's invention have been provided by Hemphill, a *prima facie* case of anticipation is not supported. Applicant respectfully requests withdrawal of the rejection.

With these amendments, Applicant believes that all claims are in position for allowance and is respectfully seeking the same. Should the Examiner believe that any issues remain outstanding, the Examiner is requested to call Applicant's undersigned attorney in an effort to resolve such issues and advance this application to issue.

Respectfully submitted,
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